

and in that way to procure some relief to themselves. But the whole pecuniary benefit of the suit, must, according to their own admissions, be awarded to their creditors. The mere form and phraseology of the bill cannot materially affect the nature of the case which it brings before the Court; and hence, although this is not a suit instituted by a creditor either for himself alone, or for himself and others, against his insolvent debtor; or against the representatives of his deceased debtor to have his real and personal assets administered for the benefit of his creditors; yet it is a suit which, by the express admission of the insolvent parties, has placed under the control of the Court a considerable fund for the benefit of those who are the creditors of the plaintiff and the defendants jointly. It must therefore be considered in all respects as a creditors' suit; and these petitioning creditors must be allowed to come in as parties; and all the other creditors of this firm must be called on by a public notice, in the usual form, to bring in the vouchers of their claims by a limited time, before any distribution can be made of the funds now in the hands of the Court. With regard to the authentication of claims, and the conflicting rights of claimants, the Court will be governed by its established rules in similar cases, as any such questions may arise. (f)

\* Whereupon it is ordered, that the plaintiff give notice to the creditors of the firm of Wilson, Williamson & Co., to **432**

(f) BARNABY v. HOLLINGSWORTH.—The bill filed 2d July, 1787, states that John Barnaby, (who was not a defendant,) being indebted to the plaintiff Richard Barnaby, and sundry other persons, conveyed all his property to the defendants H. Hollingsworth, A. Todd, J. Field and J. Warder, in trust for the benefit of his creditors; that the defendants took upon themselves the trust; obtained possession of the property conveyed, and have refused to distribute the money received, or to sell a part of the real estate, or to account. Prayer to account, for payment, and general relief, &c. The defendants answered, &c. It appears that, by an agreement of October, 1789, signed by the solicitors of the parties, the case had been referred to arbitrators; who, without the sanction of an order by the Chancellor, awarded, that the plaintiff was not the partner of John Barnaby, and that he was indebted to the plaintiff in the sum of £3,200 14s. 3½d.

HANSON, C., 28th November, 1789.—This case standing ready for decree, and the bill, answers, exhibits and award aforesaid being read, and appearing as herein before set forth; it is thereupon decreed, that the defendants Henry Hollingsworth, Alexander Todd, John Field and Jeremiah Warder, trustees in the deed aforesaid mentioned in the complainant's said bill, bearing date the eighteenth day of January, in the year of our Lord one thousand seven hundred and eighty-seven, do account with the complainant, and render upon oath in this Court, a full and particular statement of all the real and personal estate, debts due and owing to the said John Barnaby, and other property assigned and conveyed to the said defendants by the said deed of trust, and what part thereof hath been received by them or either of them, or hath come to their or either of their possession, and how the